

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MICHAEL RICHARD,

Plaintiff,

v.

Case No. 12-12516

MICHAEL BOUCHARD, et al.,

HONORABLE AVERN COHN

Defendants.

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ORDER ADOPTING REPORT AND RECOMMENDATION (Doc. 23)
AND
DENYING PLAINTIFF'S MOTION FOR DEFAULT JUDGMENT (Doc. 11)

I.

This is a prisoner civil rights case under 42 U.S.C. § 1983. Plaintiff, proceeding pro se and without payment of fees, claims that several defendants violated his constitutional rights due to deliberate indifference to his medical needs while a pretrial detainee in the Oakland County Jail. The matter has been referred to a magistrate judge for all pretrial proceedings. Plaintiff filed a motion for default judgment, contending that certain defendants were in default for failing to respond to the complaint.

On July 23, 2013, the magistrate judge issued a report and recommendation (MJRR) that plaintiff's motion be denied because (1) plaintiff did not first obtain a clerk's entry of default as required, (2) plaintiff failed to show that the defendants were properly served, and (3) the defendants have filed a dispositive motion in lieu of an answer and therefore have appeared in the case. Neither party has objected to the MJRR and the

time for objections has passed.¹

II.

The failure to file objections to the MJRR waives any further right to appeal. Smith v. Detroit Federation of Teachers Local 231, 829 F.2d 1370, 1373 (6th Cir. 1987). Likewise, the failure to object to the MJRR releases the Court from its duty to independently review the motions. Thomas v. Arn, 474 U.S. 140, 149 (1985). However, the Court has reviewed the MJRR and agrees with the magistrate judge.

III.

Accordingly, the findings and conclusions of the magistrate judge are ADOPTED as the findings and conclusions of the Court. Plaintiff's motion for a default judgment is DENIED.

SO ORDERED.

s/Avern Cohn
AVERN COHN
UNITED STATES DISTRICT JUDGE

Dated: August 15, 2013

I hereby certify that a copy of the foregoing document was mailed to the attorneys of record on this date, August 15, 2013, by electronic and/or ordinary mail.

s/Sakne Chami
Case Manager, (313) 234-5160

¹The MJRR stated that objections were to be filed within 14 days of service. Accounting for service, objections were due at least by August 9, 2013.